

**GENERAL TERMS AND CONDITIONS ("General Conditions") of RF Solutions B.V., registered in the Netherlands under company number 17259969, having its seat in 's-Hertogenbosch (The Netherlands) and its office address at 5216PD, Pettelaarpark 10, (5th Floor) in 's-Hertogenbosch (The Netherlands)**

## **1. SCOPE**

- 1.1 These General Conditions apply to all offers issued by RF Solutions B.V., including under its trade names, as well as to all contracts made between RF Solutions B.V., and the Buyer for the supply of goods and/or services ("Contracts"). Any exception or amendment to these General Conditions will only bind the parties if agreed in writing.
- 1.2 Reference to a related company means any subsidiary or parent company from time to time of RF Solutions B.V. or the Buyer.

## **2 OFFERS, CREATION OF A CONTRACT, ACCEPTANCE**

- 2.1 There is a binding Contract with the Buyer once a Sales Confirmation is confirmed by RF Solutions B.V. or once RF Solutions B.V., or any related company, commences performance of the Sales Confirmation (Contract).
- 2.2 All quotations and offers issued by RF Solutions B.V. shall be without engagement. An agreement shall not be formed until after written (Sales) Confirmation or factual performance by RF Solutions B.V. Amendments to assignments shall be binding on RF Solutions B.V. only to the extent confirmed in writing or factually performed by RF Solutions B.V..
- 2.3 Any complaints as to the (Sales) Confirmation shall be submitted to RF Solutions B.V. immediately in writing and prior to performance of the agreement by RF Solutions B.V.. If not, RF Solutions B.V. shall have the right to perform according to the initial (Sales) Confirmation.

## **3 FEES, PRICING AND VAT REGISTRATION NUMBER**

- 3.1 All prices of RF Solutions B.V. are fixed, as specified in the Sales Confirmation and are exclusive of VAT, unless parties expressly agree otherwise in writing. RF Solutions B.V. is entitled to pass on factors that increase the cost price, such as duties, taxes and surcharges, to the Buyer.
- 3.2 Parties are obliged to provide each other with their correct VAT registration number and also notify each other forthwith of any change therein.
- 3.3 If Buyer fails to fulfil the obligation as mentioned in article 3.2, the purchase price shall be automatically increased by adding the VAT and other amounts, which RF Solutions B.V. may demand as a result of such non-fulfilment.
- 3.4 If RF Solutions B.V. fails to fulfil the obligation mentioned in article 3.2, RF Solutions B.V. shall pay to Buyer the VAT and other amounts over the delivered goods in case that these are not payable by Buyer as a result of such non-fulfilment.
- 3.5 After entering into an agreement RF Solutions B.V. is entitled to increase the prices agreed upon in the event, among other things, but not limited to interim increases and/or additional charges on freights, customs tariffs, prices of goods and/or raw materials, taxes, wages or social security charges, interim increases applied by its supplier(s) and changes in the monetary relationships, which result in price increases.
- 3.6 In the event the price as mentioned in article 3.1 will increase as a result of a certain supply amounting more than 25% of the price agreed upon (excluding VAT), Buyer will be entitled to terminate the agreement concerning the future supply, on the condition that Buyer notifies RF Solutions B.V. on this matter in writing by registered mail without delay upon the receipt of the notification stating the said price increase. In that case Buyer will not be entitled to compensation for any reason or any ground whatsoever.

## **4 PAYMENT**

- 4.1 Payment must be made within 30 days of the invoice date unless agreed otherwise between parties.
- 4.2 In the event of failure to pay within the time stated in the Sales Confirmation the Buyer will be in default and must pay:
  - a) compound interest of 1.5% per month with immediate effect; and
  - b) compensation for extrajudicial costs equal to 15% of the outstanding amount, with a minimum of €250.
- 4.3 The Buyer must pay all amounts due to RF Solutions B.V. in full, without any set-off, counterclaim, deduction or withholding in respect of any amounts owing to the Buyer or its related companies.
- 4.4 Complaints in respect of invoices shall be submitted immediately in writing, stating reasons, to RF Solutions B.V., within 5 working days of the invoice date, failing which the Buyer may no longer rely on any inaccuracies in the invoices.
- 4.5 RF Solutions B.V. is entitled to set off any amounts owing to it (or its related companies) by the Buyer against any amounts payable by RF Solutions B.V. (or its related companies) to the Buyer.

## **5 DELIVERY**

- 5.1 Goods shall be delivered to the Buyer at the Incoterm and related location specified in the Sales Confirmation. Costs relating to the delivery are payable by the Buyer.
- 5.2 If the Buyer fails to accept or take delivery of the goods, delivery of the goods is deemed to be complete:
  - a) If goods are being delivered, on the date and time that delivery was attempted; or
  - b) If the goods were to be collected (FCA) by the Buyer, at a mutual agreed time on the next business day after RF Solutions B.V. notified the Buyer that the goods were ready.
- 5.3 The Buyer must also pay RF Solutions B.V.'s reasonable storage and selling costs, or any other transport costs of € 15,00 per metric ton per month.
- 5.4 The condition and quantity of the goods noted by the driver shall be binding.

5.5 RF Solutions B.V. has the right to deliver in instalments which may be invoiced separately by RF Solutions B.V.. Any delay or defect in one instalment does not entitle the Buyer to cancel any other instalment.

## **6 RISK AND TITLE**

6.1 Risk in the goods will transfer to the Buyer at the time of delivery referred to in Clause 5.1 above.

6.2 RF Solutions B.V. retains ownership of all goods ordered by the Buyer under the Contract until the earlier of:

- a) RF Solutions B.V. receiving payment in full and cleared funds for any goods or services provided and (subject to Clause 6(3)) in respect of which payment has become due; or
- b) If the Buyer sells the goods, ownership shall pass in accordance with Clause 6(8) below.

6.3 RF Solutions B.V.'s retention of title in Clause 6(2) above also applies to claims it acquires (or its related companies acquire) against the Buyer due to the Buyer's breach of contract.

6.4 Until ownership of the goods has been transferred to the Buyer, neither the Buyer nor its related companies may pledge, assign, transfer, mortgage, charge, subcontract, declare a trust over or grant any other rights in respect of the goods to any third party.

6.5 The Buyer is permitted, within the normal operation of its business, to resell the goods. If the Buyer resells the goods before RF Solutions B.V. receives payment, ownership shall be deemed to pass to the Buyer immediately before the time of the resale.

6.6 The Buyer undertakes not to assign or pledge to third parties any right of action which it obtains against its buyers, to the extent that the Buyer has not already pledged these to its financing bank, without the prior written consent of RF Solutions B.V.. The Buyer further undertakes, at the request of RF Solutions B.V., to pledge the said rights of action to RF Solutions B.V. (as defined in Book 3, Article 239 of the Dutch Civil Code), as additional security for its claims against the Buyer, on whatever basis.

6.7 If RF Solutions B.V.'s retention of title ends due to the goods being mixed or combined with other goods, the Buyer hereby grants to RF Solutions B.V. a right of pledge over the new goods as security for all amounts due, now and in the future, by the Buyer to RF Solutions B.V., on any basis whatsoever.

6.8 RF Solutions B.V.'s retention of title shall not end by reason of payment from a third party, such as an insurer, instead RF Solutions B.V.'s retention of title is subrogated to that third party.

## **7 FORCE MAJEURE**

7.1 In the event of force majeure (as defined in Book 6, Article 75 of the Dutch Civil Code), including, but not limited to, war or threat of war, terrorism, malfunction or failure of energy supply, stagnation, revolution, riots, fire, extreme weather conditions, flooding, transport restrictions, strikes (organized or not), government measures including import and export restrictions, crop failure, negative soy-crushing margin, disruption in the supply or provisions of raw materials, energy or required operating resources, both parties are entitled to suspend their obligations for the duration of the force majeure, but not exceeding one month.

7.2 If performance has become permanently impossible or if a temporary impossibility has lasted for longer than one month from the scheduled delivery, the parties shall have the right to dissolve all or that part of the contract not yet performed, without either party being entitled to compensation. The Buyer's obligation to make payment in respect of goods already delivered survives the termination of the contract due to force majeure.

## **8 LIABILITY**

8.1 In this Clause 8, loss shall include loss due to breach of contract, termination of contract or negligence.

8.2 RF Solutions B.V. shall only be liable for loss suffered by the Buyer if the Buyer can prove intent or gross negligence on the part of RF Solutions B.V..

8.3 Loss related to the phase separation/oil layering of lecithin RF Solutions B.V. shall not be liable for.

8.4 Loss related to possible contaminants is RF Solutions B.V. not liable for as long as the contaminant is not defined as legal Food or Feed additive within EU-laws or EU-guidelines for lecithin as an additive (Lecithin is not sold as ingredient, but as an additive).

8.5 RF Solutions B.V. expressly excludes liability for consequential loss of the Buyer, which includes, but is not limited to, loss of profits, stagnation, labour costs, interest costs and repair costs, transport costs, or penalties, war, revolution, riots, fire, extreme weather conditions, flooding, transport restrictions, illness, strikes (organized or not), government measures including import and export restrictions, crop failure, disruption in the supply or provisions of raw materials, energy or required operating resources and otherwise all circumstances under which, according to the principles of reasonableness and fairness, RF Solutions B.V. cannot be required to perform all or part of the agreement.

8.6 In any event, liability for loss is expressly limited to the amount that the insurance pays out in the given case, plus any excess.

8.7 If for any reason whatsoever no payment is made under the insurance, the liability for loss is expressly limited to the invoice amount excluding VAT.

8.8 Claims for damages shall be brought before the court specified and competent in accordance with these General Conditions by the Buyer within 1 year of the claim arising. After the period referred to in the preceding sentence, the claim for damages will be time-barred.

8.9 The Buyer shall call off the goods within the delivery period as agreed in the Sales Confirmation. In case goods are not called off within the agreed delivery period RF Solutions B.V. will invoice storage costs, has the right to re-sell the volume and invoice commercial losses.

## **9 INSPECTION AND COMPLAINTS**

- 9.1 In compliance with Clause 2.3 the Buyer must immediately, but no later than within 24 hours after delivery, thoroughly inspect the delivered goods for discrepancies such as defects, incorrect quantities or qualities, wrong sizes and compare these with the placed order and shipping documents. (Visual deviations: within 5 working days after reception of the goods. Product technical or quality related deviations within 15 working days after reception of the goods. The Buyer shall not take a sample of the delivered goods without the written consent of RF Solutions B.V..
- 9.2 Any discrepancy must also be immediately (Clause 9.1) reported in writing to RF Solutions B.V., failing which the delivery should be considered correct, factually and legally in the absence of evidence to the contrary from the Buyer.
- 9.3 The same conditions as set out in Clause 9(1) above apply to hidden defects, with the proviso that the period for lodging a complaint starts immediately but no later than 12 hours after discovery of the defects.
- 9.4 For all other complaints, such as incorrect invoicing, a period for lodging a complaint of 5 working days after discovery of the discrepancy applies, failing which the invoice may be considered correct, factually and legally.

## **10 TERMINATION OF CONTRACT AND ITS CONSEQUENCES**

- 10.1 RF Solutions B.V. is entitled to terminate the contract without judicial intervention if the Buyer is declared bankrupt, applies for a suspension of payment or the "*wettelijke schuldsaneringsregeling*" (Debt Rescheduling Natural Persons Act) has been declared applicable or otherwise has lost the power to dispose of its assets or part thereof.
- 10.2 In that case, the Buyer shall not be entitled to terminate the contract - in respect of any goods already delivered or otherwise - without the agreement of RF Solutions B.V..
- 10.3 Following termination, any payments due between the parties become immediately due and payable. The Buyer will be liable for loss suffered by RF Solutions B.V., including loss of profits and transport costs.
- 10.4 RF Solutions B.V. is entitled to terminate the contract without judicial intervention if the Buyer, does not respond to repeated calls (minimum 2) of RF Solutions B.V. to send a call off and RF Solutions B.V. has the risk that the product will not be called off in full within the agreed delivery period.

## **11 APPLICABLE LAW AND CHOICE OF COURT**

- 11.1 All Contracts are governed exclusively by Dutch law.
- 11.2 Any disputes between the parties arising under, or directly or indirectly related to, a Contract will be settled by the competent Dutch courts.

## **12 AUTHENTIC LANGUAGE AND MISCELLANEOUS**

- 12.1 If these General Conditions are also provided in a language other than the English language, the English version hereof will always be decisive in case of any dispute over interpretation or explanation.
- 12.2 If any of the above provisions is declared void, illegal or unenforceable by a court, the remaining valid provisions shall continue to bind the parties. Where possible, provisions that have been held to be void or unenforceable will be deemed modified to the minimum extent necessary to make it valid, legal and enforceable, having regard to the scope and intentions of the parties and these General Conditions.

To all agreements with RF Solutions B.V. Food Ingredients B.V. are applicable the General Conditions (version 1st - Oct 2021) which are filed at the Chamber of Commerce and Industry of Brabant, under number 17259969.